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‘Making Children’s Rights Real’: Lessons from Policy Networks and Contribution Analysis

Author Details:

A.M. Gadda, Head of Policy and Research, Scottish Child Abuse Inquiry, PO BOX 24085, Edinburgh, EH7 9EA, Andressa.Gadda@childabuseinquiry.scot, @agadda, ORCID ID: 0000-0001-9510-8804

Juliet Harris, Director of Together (Scottish Alliance for Children’s Rights), Rosebery House, 9 Haymarket Terrace, EH12 5EZ, +44 131 337 9015

E. Kay M. Tisdall, Professor of Childhood Policy University of Edinburgh, Moray House School of Education, Childhood & Youth Studies Research Group, St John’s Land Holyrood Edinburgh EH8 8AQ UK, +44 131 650 3930 K.Tisdall@ed.ac.uk ORCID number 0000-0001-8967-6426

Elizabeth Millership, Policy and Communications Officer for Together (Scottish Alliance for Children’s Rights), Rosebery House, 9 Haymarket Terrace, EH12 5EZ, +44 131 337 9015

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Biographical note:

Andressa Gadda has worked as a researcher in the field of child care and protection for over 10 years. Most recently she was a Research Fellow at the Centre for Child Wellbeing and Protection (CCWP) at the University of Stirling. She is currently the Head of Policy and Research at the Scottish Child Abuse Inquiry (SCAI).

Juliet Harris is the Director of [Together \(Scottish Alliance for Children's Rights\)](#) and leads the organisation in promoting and monitoring the implementation of the UN Convention on the Rights of the Child (UNCRC) across Scotland. This includes working with Together's membership of over 380 children's organisations and professionals to produce an annual State of Children's Rights report, as well as liaising with government and parliamentarians to further children's rights in legislation, policy and practice. Juliet's previous experience includes six years tackling the destitution and poverty of refugees and asylum seekers, alongside a number of roles with charities working in the field of health and homelessness.

Kay Tisdall is Professor of Childhood Policy at the University of Edinburgh. She has a long-standing interest in children and young people's participation, from her policy and research work.

Elizabeth Millership has held various children's rights roles in policy, research and consultancy including a long-standing association with Together.

Abstract

The UN Convention on the Rights of the Child (CRC) is the most ratified human rights convention in the world. There has been considerable progress in terms of incorporating these rights into domestic law, regional and local policies, and these rights are promoted in a host of projects and activities. However, cross-national research continues to show gaps in implementation and how particular rights are being enacted, claimed and realised in children's lives. This article draws on theoretical developments on policy networks and Contribution Analysis (a theory-based model used to monitor and evaluate programmes) to examine and evaluate advocacy for children's human rights. With the normative valuing of children's human rights, such theoretical developments are rarely applied to advocacy – yet their practical, evidenced concepts have much to contribute. This article applies such concepts to recent developments in children's human rights in Scotland. With the official national commitment to 'making rights real', Scotland is a fertile test case to examine what strategies are likely – or not likely – to result in embedding children's rights legally and practically in their lives. The article concludes that successful advocacy needs to pay attention to which key actors are included or excluded from networks, to anticipate disruption and strategise accordingly, and to recognise the key role of the person who manages the network. Contribution Analysis adds attention to *how* policy is made and the benefits of collectively identifying a theory of change that can be monitored, modified and improved. Collaboration, dialogue and trust can ensure such a theory of change is ultimately successful: these require both attention to emotional connections and impact as well as evidence.

Key words: children's rights, human rights, advocacy, policy networks, contribution analysis

Introduction

For those who promote children's human rights – in academia, policy and practice – there is often a normative belief in the value of doing so. Recognising children's rights is a fundamental recasting of children and childhood, from being solely dependent and passive 'objectives of concern', to recognising children's human dignity and their own contributions as social actors.¹ Thus implementation gaps and failures to 'convert' decision-makers to *recognising* children's human rights, let alone *addressing* children's human rights, can seem unenlightened and frustrating to advocates of children's rights.

This passion has its place, in encouraging transformative change in attitudes, institutions and cultures.² Other approaches have their place too, in illuminating the mechanisms and causal pathways that can lead to policy and practice changes. This article will draw on complementary theoretical developments in policy network literature and Contribution Analysis, to examine and evaluate strategic approaches to advocacy. It will use the example of recent and unfolding policy developments in Scotland, to consider their potential for forwarding children's human rights. With the official national commitment to 'making rights real', Scotland is a fertile test case³ to examine what policy strategies are likely – or not likely – to result in embedding children's rights legally and practically in their lives.

The article will first set the scene of these developments in Scotland, for an international audience. It will then develop core ideas within political network literature and Contribution Analysis, which will be applied in the subsequent sections to discuss the Scottish test case. The article concludes by exploring the benefits of such analysis, for collaborative advocacy, ensuring the involvement of children and young people, strategic mapping and a theory of change.

The Scottish test case

In its 2017-18 Programme for Government, the Scottish Government makes particular commitments to address children's rights:

... 2018 is Scotland's Year of Young People, which presents an opportune moment to realise more fully the rights of children and young people and further embed a rights based approach in all that we do.

... [we will undertake] a comprehensive audit on the most effective and practical way to further embed the principles of the UN Convention on the Rights of the Child into policy and legislation ...⁴

This continues a trend of recent years, where the Government has used the strapline 'making rights real' for children one of its key policy promises.⁵ Never before has children's rights, and particularly the CRC, had such strong prominence in Scottish national policy.

Scotland, as a devolved nation of the United Kingdom (UK), has certain obligations to implement the CRC. The UK ratified the CRC in 1991. While bound by international law, such ratification in the UK does not permit rights in the CRC itself to be justiciable nationally. Instead, particular rights can be written into domestic legislation, while decisions by such bodies as the European Court of Human Rights or the European Court of Justice have led to the reform of domestic law.⁶ Efforts have been made by children's rights advocates to influence policy and practice, locally and nationally, to improve implementation. Nonetheless the UN Committee on the Rights of the Child's Concluding Observations, as well as civic society reports, amply show the gaps at all levels in recognising children's rights.⁷

The Scottish Government has taken certain steps. Part I (Rights of Children) in the Children and Young People (Scotland) Act 2014 places duties on the Scottish Government and public bodies in relation to the CRC. For example, Section 1(1) requires Scottish Government Ministers to 'keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements'

and to take any of the steps identified, if they consider it appropriate to do so. Accountability of both public bodies and Government is through public reporting at stated intervals, including the Government submitting a report to the Scottish Parliament every three years. These and other related duties have been welcomed, as the CRC for the first time is explicitly mentioned in Scottish domestic legislation and the duties provide a platform for systemic change.⁸ Nonetheless, a close reading of the new duties shows they are vague and weak legally,⁹ requiring other forms of accountability and persuasion to ensure they will have an impact on realising children's human rights.

Taking the platform provided by Part I of the Act, further activities (like the seminar series which inspired this special journal issue),¹⁰ continue apace. The Programme for Government's commitment in 2017, described in the introduction above, provides potential for further policy moves, with an internal Government audit team underway and the 2018 Year of Young People strongly framed by a rights agenda. With the Scottish Government's commitment to hearing the views of children and young people, the Scottish Youth Parliament's Campaign on young people's rights (*Right Here, Right Now*) may have particular effect.

As such developments continue to unfold, there is an opportunity to analyse happenings to date, to learn from them, and to look ahead at the potential ways to realise the Government's strapline of making rights real for children. For this article, we explore conceptual literatures that are rarely considered within human rights/ children's human rights literatures: policy networks and Contribution Analysis.

Conceptual Tools: Policy Networks and Contribution Analysis

There is broad consensus amongst public policy scholars that recent societal changes, such as the increasing complexity of social problems and societal fragmentation, require new governing methods that rely on governments collaborating with the private and/or public sectors in defining and implementing public policy.¹¹ This requires shifting from hierarchical top-down government, to more horizontal governance, where non-governmental actors liaise with government actors to develop and manage policy, through networks.

Policy networks are formed when mutually dependent actors repeatedly connect to take shared decisions within a policy area. Government and non-government actors may come together through a formal process organised by public managers and enforced by contractual relationships (formal networks) or an informal process where actors come together organically to address a public issue (informal networks).¹² Many networks will start organically and, overtime, become formalised.¹³

There are several competing theories about how policy networks are formed and sustained over time. The Advocacy Coalition Framework (ACF) proposes that shared ideology is the main driver of collaboration.¹⁴ When individuals have similar interpretations of the evidence presented to them, they are more likely to trust each other.¹⁵ Trust is productive because it ‘reduces transaction costs for both network managers and network participants’.¹⁶ Since trust is a crucial aspect for collaboration, stakeholders are more likely to form networks with those with similar ideologies to their own as this reduces the transaction costs for network actors. Conversely, mistrust can arise when network actors have different interpretations of evidence. In order to reduce transaction costs a policy network may only include like-minded individuals who may ‘entrench themselves in ideological bunkers’.¹⁷ Thus, familiarity, shared ideologies and trust can bring together and consolidate networks but these same factors risk

dampening innovation, as dissenting voices are excluded from policy making and implementation processes.

Resource Dependency Theory (RDT) offers an alternative explanation of policy networks' formation. The main premises are that policy actors come together to share resources and information because, on their own, they would not have as much bargaining power to influence policy.¹⁸ Consequently, policy actors look for collaborations with others who possess the resources they lack, to maximise their influence in the policy process.¹⁹ One way in which network actors can exercise their influence is through their '**veto power**': that is, one or more policy actors can block processes by withdrawing resources.²⁰ As stagnation can be costly, policy actors must find ways to arrive at a solution that is sufficiently palatable to lift the veto.

Klijn and Koppenjan²¹ highlight the centrality of the interplay between dependency and individual/organisational interests and resources. They use the concept of **policy games** to explain how interactions between the different stakeholders in a policy network shape their perceptions about the nature of the social issues to be addressed and the strategies they adopt within networks. Strategies are 'influenced by the perceptions of the actors, the power and resource divisions in the network and the rules of the network'.²² The strategy selected by actors will determine the outcome of the game.

Network rules emerge from the interactions between actors within a network.²³ They govern the interactions between actors, as well as the content of these interactions.²⁴ Rules are important for determining the possibility of collaboration and reducing the risks of network actors prioritising their own personal goals to the network's detriment.²⁵ Rules are devised by policy network actors and are therefore unique to each network; they will change over time to adjust to the changing power relations, goals and roles of network actors.²⁶

Whilst rules and resources distribution within a network can, to an extent, regulate the interaction amongst actors, there must be a level of coordination. **Network management** refers to the strategies used by the network manager(s) to arrange and facilitate interactions amongst network actors to improve cooperation and, consequently, the achievement of network goals.²⁷ According to Klijn and colleagues,²⁸ network managers are crucial for networks' success. Individuals and organisations will join policy networks with their own sets of priorities, interests and desired outcomes and so arriving at a common definition of, and resolution to, the policy issue may be challenging.²⁹ These differences have to be managed carefully for trust to be built. Network managers use multiple strategies to manage the activities of a network and build consensus.³⁰ The strategies used by managers will impact on the policy networks' outcomes.

There are various criticisms of policy network approaches, both applied and conceptual. Some have warned that the reduced role of governments in policy processes can lead to a lack of legitimacy and accountability.³¹ However, whilst government may no longer be controlling the decisions fully, governments continue to hold central and very powerful places in policy processes as they have access to unique resources.³² Others have criticised the network approach for placing too much emphasis on co-operation and consensus and ignoring the role of power.³³ Whilst networks include a multitude of stakeholders and perspectives, they are not necessarily representative nor will all voices and perspectives be included.³⁴ In reply, Klijn and Koppenjan³⁵ argue that, rather than ignoring the role of power, *conceptually* network approaches pay particular attention to how power relationships impact on the development, management and impact of networks. A challenging criticism is that the policy network literature lacks a coherent theoretical framework to drive inquiry.³⁶ This results in a fragmented approach to the study and theorisation of networks³⁷ and confusion about the terminology used to describe various aspects of policy networks. Others have observed that,

whilst offering a useful descriptive framework to the study of policy processes, the network approach does not provide an explanation of *how* policy processes have been achieved.³⁸

Contribution Analysis provides one way to consider this, as an approach to plan, monitor and evaluate policy networks' activities.

Contribution Analysis (CA) is a theory-based evaluation model proposed by Mayne³⁹ to monitor and evaluate government programmes. CA explores the contribution a policy, programme or intervention has made to an observed outcome, recognising that multiple factors will impact on the achievement of any given outcome.⁴⁰ Rather than trying to prove cause and effect, CA seeks to develop a 'road map' clarifying what needs to happen and when for desired outcomes to be achieved.⁴¹ This road map, often referred to as the theory of change or logic model for a programme, shows how the intervention is expected to work by making explicit the links between context, outputs, outcomes and other influencing factors.⁴²

CA has six steps:

- 1) Set out the attribution problem to be addressed.
- 2) Develop the theory of change and risks to it.
- 3) Gather the existing evidence on the theory of change.
- 4) Assemble and assess the contribution story and challenges to it.
- 5) Seek out additional evidence.
- 6) Revise and strengthen the contribution story.⁴³

Steps 3 to 6 should be carried out iteratively, as over time implementation gaps become clearer and specific actions and revisions of the theory of change are required.⁴⁴

Whilst CA has been developed as an evaluation tool, it has several features that make it useful for considering how policy processes are achieved (or not), and monitoring and evaluating their outcomes. CA is particularly useful when analysing cause and effect

relationships within complex systems where multiple variables interact dynamically over time.⁴⁵ CA requires links between action and outcomes to be made explicit in its theory of change, consideration of the context and exploration of alternative explanations. By making explicit the links between outputs, resources and outcomes, CA can lead to better coordination and less duplication of efforts amongst network actors.⁴⁶

The combination of concepts from policy networks and CA provide a novel approach to analysing children's human rights advocacy. Using the same 'test case' of recent events in Scotland, we consider how policy networks and, then, CA help us understand these events and provide lessons for the future.

Learning from policy networks

As stated above, policy networks rely on mutual dependence between government and policy actors, with a degree of trust and adherence to the 'rules of the game'. Such characteristics are amply evident in the Scottish children's sector. There are a substantial number of small and large charities in the children's sector and there are extensive public sector services that provide children and their families with services (e.g. education, health, social work and more), creating ample members for a policy network and considerable civic society attention to children and young people's issues. While the Scottish Parliament has the legislative function, and the Scottish Government has a role to set national policy as well, they are not the organisations that implement the legislation and/or policy and they are typically not direct service providers. Thus the Scottish Government is dependent on local government and other local service providers to deliver on its policy. Yet funding streams importantly come from the Scottish Government to both the public and voluntary sectors, as a key tool alongside law to promote national policy objectives. This creates a significant degree of mutual

dependence,⁴⁷ in a well populated network with many key players familiar to each other in a relatively small country.

Disruptions in one or more of these components reveal the policy networks themselves – and raise questions for inclusion, exclusion and possible avenues for development. As civic society attempted to negotiate consensus on greater CRC incorporation into Scottish domestic policy, there were two notable disruptions to the policy network and associated policy development.

First, in 2010 and 2011 certain key decision-makers in the Scottish Government (both Ministers and civil servants) showed interest in the Welsh Assembly Measure⁴⁸ to embed children's rights further. It was attractive for the Scottish Government to consider going further than the Welsh Assembly in this regard. Following informal meetings and exchanges within the pro-incorporation policy network, the Scottish Government published the consultation paper *Consultation on Rights of Children and Young People*.⁴⁹ A children's rights bill was possible as there was wide support across all sectors for further incorporation of the CRC – but this possibility never materialised. Amongst various considerations was the view put forward by the Law Society of Scotland,⁵⁰ that the Government's proposals would *weaken* the international obligations Scotland already had for the CRC. As the Government was hesitant at the time to go further, this contribution encouraged it to go *backwards* and to promise less in making children's rights justiciable in Scotland.⁵¹ Children's rights legislation would be bundled together in a larger children's bill.

Subsequently, when this bill -- the Children and Young People (Scotland) Bill -- was initially being considered by the Education and Culture Committee in the Scottish Parliament, legal expertise again disrupted the pro-incorporation policy network's negotiated consensus. The oral evidence at the Committee included members of the core pro-incorporation network, such as the Commissioner for Children & Young People in Scotland and Together (the

Scottish Alliance for Children's Rights). It also included Professor Norrie, who argued against greater incorporation.⁵² Professor Norrie himself had separate and strong trust relationships with the Committee, as he had previously been the expert adviser on the Children's Hearing (Scotland) Bill.⁵³ Elements of Professor Norrie's critique were picked up throughout the subsequent Parliamentary discussions, while counter-opinions were not.⁵⁴

In both these examples, the critique came from outwith or at the margins of the pro-incorporation network, which was meeting regularly on children's rights and children's services more generally. Both examples display two inter-related resources, which were not successfully countered by the pro-incorporation policy network: legal reputation and legal expertise. As policy was being formalised into a legal instrument, such resources were arguably particularly influential; the Government and the legislature do not want to pass legislation that is legally flawed. Further, it became an increasing refrain in Parliamentary discussions that children's rights should be kept *out* of the legal system and should not be decided by courts.⁵⁵

The seminar series, which led to this special journal issue, sought to address this explicitly. It did so by bringing in the cross-national perspective of Professor Kilkelly (a legal expert on international human rights) and Dr Hoffman's insider experience of the Welsh Assembly Measure and its implementation. It set up a discussion between Professor Norrie and Dr McCall-Smith (also a legal expert on international human rights), and included Professor Sutherland as another Scottish legal expert on children's rights. It also brought together civil servants and parliamentarians with academics, NGOs and children and young people. From a policy network analysis, these are examples of network management, where external resources and actors are pulled into the network and efforts are made to create an *internal* space for dissection and discussion of previously *external* critiques. The Scottish Government has now made its further commitment to exploring how to implement better children's rights

domestically, which arguably shows that this initiative had some success. Nonetheless, the legal accountability for children's human rights remains sensitive and an issue that those promoting incorporation need to address.

Disruptions are not always about stopping or diverting a certain path of policy development: they can also be additional. Who Cares? Scotland, a national voluntary organisation working with care experienced young people, supported a campaign to radically extend provision for young people when they left care.⁵⁶ This too was not in the original bill but the organisation used its place in the children's sector network to garner support. The history of engagement with MSPs over the topic was considerable: the Scottish Parliament's Education and Culture Committee had held two inquiries (2012 and 2013) addressing issues for care experienced children and young people, which included children and young people's testimonies on how services had not worked for them. The Committee members were increasingly well informed about the issues, recommendations and possible solutions. Further, several Committee members became personally committed, voicing strong emotions in advocating for these changes to aftercare provision.⁵⁷ These affective relationships, and the accompanying trust expectations of those involved, provide a vital counterpoint to the rationality so often discussed in policy network literature.⁵⁸ Here, the trust built over time between care experienced children and young people and politicians led politicians to push legislative changes, which had been far more limited on the Government's policy agendas. Arguably, Who Cares? Scotland and partners were able to create a micro policy network, managing the network between children, young people and key politicians, and forging one based on longer-term relationships and trust that led the politicians to be willing to agitate for radical change.

Policy network concepts thus provide a useful lens to analyse policy developments in children's human rights in Scotland. It shows the advantages of the often close knit policy

networks in the children's sector, to move policy forward. It shows that children and young people are incrementally being incorporated into the 'rules of the game'. But policy networks can be unwisely closed, disrupted in this case when legal expertise were under-recognised initially and under-addressed, leading to (perhaps needed) disruptions in policy development and requiring policy networks to re-calibrate.

Learning from Contribution Analysis

As previously stated, Contribution Analysis (CA) can be used by policy networks as a planning and learning tool. Reflecting on recent experience of advocating for incorporation, the children's rights policy network can learn from starting with addressing the attribution problem (step 1 of CA): did advocacy efforts from the network influence the final provisions of the 2014 Act? If not, why not?

The role of legal expertise, discussed above, can also be analysed through CA. Efforts made by the pro-incorporation network were complicated by the complexities of the broader children's policy network, which includes multiple actors with different priorities, constraints and beliefs. Within this broad network, there has been an intransigent debate as to the most effective, practical and impactful ways of ensuring the implementation of children's rights, and the extent to which the CRC should be incorporated into domestic law.⁵⁹ This became apparent during the passage of the 2014 Act, when two conflicting theories of change emerged. The first was among the pro-incorporation network, which shared an understanding that CRC incorporation into law was needed to embed children's human rights legally and practically in their lives. The second was a 'non-incorporation' network, which had a shared understanding that progression of children's rights should be forwarded through ad-hoc legal measures and other non-legal measures. The interplay between these different networks –

with shared long-term goals to progress children's rights but very different theories of change as to how this goal could be achieved -- significantly influenced the 2014 Act's development.

As the second step in Contribution Analysis, creating a theory of change should involve bringing together network actors to develop a shared understanding and common language that strengthens their capacity to collaborate, as well as identifying any risks to the theory of change. Together (Scottish Alliance for Children's Rights) provided a focus for the pro-incorporation network, which included many NGOs, interested academics, other professionals and children and young people. Although the non-incorporation network had no formal focus, its membership included powerful actors with resources and influence (Government officials, Parliamentarians and some legal academics). This proved to be a challenge for the pro-incorporation network in terms of achieving significant progress.

As in step 3 of the Contribution Analysis, both networks gathered evidence that supported the opposing theories of change to submit to the Parliamentary Committee tasked with examining the Bill. To articulate the theory of change supporting the call for incorporation, Together produced briefings for members and Parliamentarians which were supported by in-depth research conducted by UNICEF UK on the experience of other countries that had incorporated the CRC. Both the briefings and the research focused on the processes created by incorporation more than the outcomes experienced by children and young people.

Together's briefings advocated for a full 'Human Rights Act' model of incorporation rather than a bespoke model specific to Scotland. Often based on these briefings, written evidence was submitted by Together, other NGOs and some local authorities.⁶⁰ This demonstrates in practice how policy networks that only include like-minded individuals can 'entrench themselves in ideological bunkers' at the expense of finding a more innovative solution to a policy problem.

The non-incorporation network included the civil servants and Ministers who had drafted the Bill. Evidencing the central and powerful role that government plays in policy processes, this network did not need to rely on formal Committee consultation channels to assert influence. The Bill, as presented to Parliament, was already strongly influenced by the non-incorporation stance. The non-incorporation network only needed to advocate for the status quo during the passage of the Bill through Parliament rather than advocate for further change. Professor Norrie's contribution in oral evidence only increased MSPs' reluctance to go further. The Scottish Parliament's Education and Culture Committee explicitly weighed up the respective arguments and evidence and concluded that it was 'not persuaded of the case for full incorporation of the CRC into Scots law' and that 'the benefits arising from incorporation of the CRC could be realised from improvements in policy and practice...'.⁶¹ As a result, Part I of the Bill was only tweaked as the Bill went through Parliament and remains relatively weak legally.

The experience of the passage of the 2014 Act demonstrates that it is not only the substantive evidence that contributes to a theory of change, but also *by whom the evidence is presented, who the evidence is presented to, and the context in which it is put forward*. Despite playing a less prominent role in formal consultation processes, the non-incorporation network's theory of change was more influential. This can be attributed to the veto power held by some of the network actors (including Parliamentarians and government officials). The pro-incorporation network had not succeeded in evidencing what difference incorporation would make in terms of children and young people's lived experience of their rights. In the absence of strong pro-incorporation oral evidence from legal professionals, the pro-incorporation network had not managed to counter some of the powerful arguments put forward by Professor Norrie as a prestigious, influential and trusted legal academic.

The pro-incorporation network could use CA – specifically carrying out steps 3-6 iteratively over time – to address the gaps and disruptions in its theory of change. For example, given that a human rights approach should include processes and outcomes and ensure the participation of rights holders as both a means and a goal,⁶² the theory of change for the pro-incorporation network should include three key intermediate outcomes:

1. Amending, adding to or creating legislation and policy to ensure compliance with the UN Convention on the Rights of the Child (CRC) (processes);
2. Children and young people practically experience their rights in line with the CRC (outcomes);
3. Children and young people are meaningfully involved throughout the implementation, monitoring and evaluation of all activities taken to achieve these goals (participation).

The last two were lacking in advocacy efforts for the 2014 Act, in that little evidence was collated on the impact of incorporation on children’s practical experience of their rights, and children and young people were not routinely supported to be involved meaningfully in discussions around incorporation.⁶³

As evidenced by the Scottish Government’s early attraction to ‘leap frogging’ the Welsh Assembly, wider UK developments plays a strong influencing role in legislative and policy development and must be recognised and taken into account in any CA undertaken by the pro-incorporation network. A significant event since the passage of the 2014 Act is the 2015 referendum on the UK’s membership of the European Union (EU). With Scotland voting strongly to remain in the EU, against an overall vote across the UK to leave, the Scottish Government has actively taken steps to establish itself as being progressive, innovative and international. This has contributed to an environment in which the Scottish Government is making stronger commitments to rights-based approaches, including establishing ‘... an expert advisory group to lead a participatory process to make recommendations on how Scotland can continue to lead by example in human rights, including economic, social, cultural and environmental rights’.⁶⁴ This advisory group – with a specific remit to look at

economic and social rights – provides a powerful means through which the pro-incorporation network can address some of the Scottish Government’s concerns about establishing binding and justiciable rights in law. The pro-incorporation network also has the opportunity to influence the audit on the implementation of the CRC. Learning from policy network literature, the audit provides an opportunity to identify an innovative solution to incorporation by including multiple stakeholders in policy making, establishing relationships between the audit team and legal experts, academics and children and young people from the pro-incorporation network, as well as those from the non-incorporation network.

Another significant context for the theory of change is the implementation of the 2014 Act. The Scottish Government has integrated non-legislative measures into legislation and policy-making such as the use of the Child Rights and Wellbeing Impact Assessments.⁶⁵ Ministers have to report to the Scottish Parliament on the steps taken over the past 3 years to implement the CRC and set out actions that will be taken in the coming 3 years. With this new focus on the CRC, the Scottish Government has made a commitment to take forward two significant legislative developments that have long been highlighted as areas of concern by the UN Committee: raising the age of criminal responsibility from 8 to 12 years-old⁶⁶ and supporting a bill to remove the defence of ‘justifiable assault’ against children in Scottish law.⁶⁷ Thus, compliance with the CRC is increasing incrementally.

The audit provides an opportunity to take further step 5 of CA – seeking out additional evidence. As previously discussed, this additional evidence must include the impact of incorporation on children’s practical experiences of their rights. To an extent, this is already being taken forward, particularly through the work of Together and its members. Following recommendations made to the UK by the UN Committee in 2016, Together published a baseline report on the extent to which Scotland was meeting its obligations under the CRC. Whilst recognising progress made in Scotland, it also identified a number of areas in which

children's rights were not being recognised. Many of these issues would be addressed through incorporation – either through policy and legislation being formed from the outset in a way that respects, protects and fulfils children's human rights, or through retrospective changes to legislation, policy and practice. As previously discussed, the seminar series (that led to this special journal issue) brought together actors from both the pro and non-incorporation networks to explore evidence on the impact of legislation, policy and practice in implementing the CRC.

Children and young people's involvement need to be supported in the audit (and wider work by the pro-incorporation network). Again, to an extent, this is being taken forward. There is a heightened understanding of the importance of involving children and young people in the implementation, monitoring and evaluation of embedding children's rights into legislation and practical experience.⁶⁸ The Scottish Youth Parliament's *Right Here, Right Now* campaign includes a specific emphasis on securing CRC incorporation into Scottish Law. The Scottish Government's Year of Young People is an international first. The Scottish Cabinet held its first official meeting with children and young people in March 2016, and has committed to make this an annual event to ensure their voices are taken into account in high-level decision-making.⁶⁹ Children and young people's involvement in governance is growing.

These developments provide an opportunity for the pro-incorporation network to revise and strengthen its contribution story to the theory of change. The developments provide the context in which both the pro and non-incorporation networks can develop an enhanced understanding of their contrasting theories of change to develop a bespoke, more nuanced model of incorporation that both networks can agree will effectively embed children's human rights legally and practically in their lives.

Conclusion

The children's rights policy network has so far relied strongly on the normative belief in children's human rights to influence legislative progress in Scotland. The 'passion' of children's rights advocates has resulted in some change but has not yet succeeded in rights being consistently embedded legally and practically throughout children's lives. Theoretical developments on policy networks and Contribution Analysis provide a useful lens through which advocates for children's human rights can analyse developments to date, identify effective levers of change, and use this learning to influence current and forthcoming developments.

Applying these concepts reveals powerful levers of change, including the value placed on legal reputation and expertise and the impact of broader UK and European developments. Using these concepts, the children's rights policy network can understand the value of creating internal spaces to analyse and address critiques from outside the core network – and to create solutions. It can also identify the importance of collating evidence on outcomes to support a theory of change. As such, the children's rights policy network in Scotland would benefit from explicitly creating a theory of change, to plan, implement and monitor further activities to progress children's rights, particularly given the stated commitment to children's rights in the Programme for Government and through the CRC audit.

Concepts from the policy network literature allow a mapping and labelling of key elements, which help create a strategic analysis and approach. They draw attention to the policy actors who are included or not included in a policy network, and their respective resources. They demonstrate the importance of network managers, and that role's power in terms of connecting actors into the network and creating internal spaces for debate and collaboration. They show the risks of policy networks, in stifling innovation, and the importance of trust. The test case of Scotland shows that such trust is affective as well as cognitive. MSPs' direct

interactions with care experienced children and young people, through two Committee inquiries, led to MSPs feeling emotionally affected and response for ensuring policy improvements. This emotional accountability was influential in pushing through radical changes quickly.

CA encourages attention to change and process. As a planning tool, it can help network actors to clarify roles and identify the unique resources and assets they bring.⁷⁰ The co-development of a theory of change can help actors to come together and agree on common goals, the actions required to achieve that, and how progress will be defined and assessed.⁷¹ Early identification of external factors that may inhibit the proposed course of action can be addressed in advance of them becoming a problem.⁷² The iterative process of learning and improvement cycles can support network actors to identify gaps in their theory of change and increase their influence over the policy process. In addition, a policy network may find it helpful to carry out a CA of *other* networks who have been successful in achieving their goals to learn lessons about what factors may support or hinder their actions. Such analysis must take into account how different contexts may contribute to or hinder successful collective action. Through such activities, a reasonable judgement about the impact of a particular intervention can be reached based on the best available evidence.

The test case of Scotland, as discussed in this article, demonstrates the power of applying such resources retrospectively to analyse the progress to date in progressing children's human rights. They provide considerable potential for the future, where the normative advocacy for children's human rights can be combined with a strategic approach that together aims for transformative change in legislation, policy and practice.

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⁴⁷ While not an issue explored in this article, there are advantages and disadvantages of such mutual dependence. For example, it can facilitate an exchange of knowledge and expertise and lead to co-production of sound policy solutions. It can also lead to conflicts of interests and funders constraining implicitly or explicitly advocacy by organisations that they fund. Such issues are explored by E. Bloodgood and J. Tremblay-Boire, 'Does government funding depoliticize non-governmental organizations? Examining evidence from Europe', *European Political Science Review* 9, no. 3 (2017): 401-424, DOI: [10.1017/S1755773915000430](https://doi.org/10.1017/S1755773915000430)

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⁵⁴ For fuller analysis and the details of Professor Norrie's critique, see E.K.M. Tisdall, 'Children's Wellbeing and Children's Rights in Tension?', *International Journal of Children's Rights* 23, no. 4 (2015): 769-789. To note that the Scottish Parliament was established with the explicit aim to welcome civic engagement, to increase transparency and accountability. The presentation of diverse and sometimes conflicting views is legitimately part of the Parliament in particular and policy development and advocacy more generally.

⁵⁵ For fuller analysis of the arguments for and against CRC incorporation, see E.K.M. Tisdall, 'Children's Wellbeing and Children's Rights in Tension?', *International Journal of Children's Rights* 23, no. 4 (2015): 769-789. In summary, pro-incorporation arguments include: the gaps within legal protection of CRC rights due to the incremental approach; evidence from other countries that incorporation does not lead to substantially more legal challenges, but rather practice and social change; and that incorporation will ensure a holistic and consistent framework for children's rights. Prevailing arguments against incorporation are: practice change will better ensure children's rights are realised in practice; certain children's rights should not be subject to legal challenge and decision-making; and children should not be involved in litigating about their rights.

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⁶⁵ See Payne's article in this special issue.

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⁶⁷ C. Webster, 'Scotland to ban parents from smacking their children with landmark legislation', *Independent*, October 19, 2017, <http://www.independent.co.uk/news/uk/home-news/scotland-smacking-ban-corporal-punishment-parents-children-john-finnie-bill-justifiable-assault-a8009111.html>. In October 2017, Scottish Government Ministers said that they will ensure that a Bill brought forward by Green MSP John Finnie would become law. The legislation will remove the defence of "justifiable assault", in Scottish law, which allows parents to use physical punishment to admonish a child.

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⁶⁹ Scottish Government, 'Annual Cabinet event with children and young people', May 9, 2017, <http://www.gov.scot/Topics/People/Young-People/families/youth-work-participation>

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